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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/529,028	04/06/2000	STEPHAN BAUER	48436	8779
26474	7590	02/24/2004	EXAMINER	
KEIL & WEINKAUF 1350 CONNECTICUT AVENUE, N.W. WASHINGTON, DC 20036			JACKSON, MONIQUE R	
			ART UNIT	PAPER NUMBER
			1773	

DATE MAILED: 02/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/529,028

Applicant(s)

BAUER ET AL.

Examiner

Monique R Jackson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 03 December 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 55-72 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 55-72 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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### **DETAILED ACTION**

1. The amendment filed 12/3/03 has been entered. Claims 13, 19, 21, 24, 27, 38, and 42-54 have been canceled. New claims 55-72 have been added. Claims 55-72 are pending in the application.

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

### ***Claim Rejections - 35 USC § 103***

3. Claims 55-72 are rejected under 35 U.S.C. 103(a) as being unpatentable over DE 196 12 769 A1 (Bronsert et al) in view of Koksbang et al and Williams for the reasons substantially recited in the prior office actions wherein Bronsert et al teach the first and second layers as instantly claimed including the polymeric composition obtained by polymerization of 5 to 100%, or 5 to 75%, by weight of the free radically polymerizable compound and 0 to 95%, or 25 to 95%, by weight of the further compound. Though Bronsert et al teach that the first and second layers may be attached by known methods including under pressure, laminating and pressing, Bronsert et al do not specifically teach utilizing hot or cold lamination, corona discharge treatment, or a bonding layer as instantly claimed. However, these lamination methods are techniques well known in the art and would have been obvious to one skilled in the art at the time of the invention. For example, Koksbang et al. discloses that lamination of electrochemical cells can occur by application of heat and pressure (col. 13, lines 17-18) and though Koksbang et al do not specifically teach the lamination temperature, one having ordinary skill in the art at the time of the invention would have been motivated to utilize routine experimentation to determine a suitable lamination temperature based on the materials being laminated to provide the desired

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adhesion properties. Further, Williams discloses that corona treatment can be utilized in the manufacture of electrochemical cells to increase the functionality of a polymer layer to thereby provide better adhesion between the polymer and the other materials coated upon it (col. 6, lines 62-67). Additionally, one skilled in the art would have been motivated to utilize customary adhesives or bonding materials, which typically have a lower melting point than the materials being laminated together, as a bonding layer in the invention taught by Bronsert et al wherein it would have been obvious to one skilled in the art to including the same solid in all the layers of the composite in order to provide the same electrochemical functionality throughout the laminate. Therefore, one having ordinary skill in the art at the time of the invention would have found it obvious to employ such adhesion-improvement process steps as instantly claimed to laminate the layers of Bronsert et al.

#### *Response to Arguments*

4. Applicant's arguments filed 12/3/03 have been fully considered but they are not persuasive. With respect to the obviousness rejection, the Applicant argues that given the proximity of the dates of the Bronsert reference (10/2/97) and the instant application priority date (10/9/97), it is suggested that the "invention of the present subject matter was accomplished prior to publication of the Bronsert reference." This argument is not considered persuasive given that a publication date just one day prior to the effective filing date of the instant application (equivalent to the date of the invention) would meet the requirement of U.S.C. 102(a) rendering the publication prior art. However, the Applicant can overcome a 102(a) reference by swearing back of the reference by the submission of an affidavit under 37 CFR 1.131. With respect to the obviousness double patenting rejection, it does not appear that the Applicant has provide any

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substantial arguments explaining why the claims are not obvious over the claims presented in U.S. Patent 6,416,905. Applicant's only statement is that the instant application is allegedly not obvious over the priority documents from which the patent stems and therefore the instant application cannot be obvious over the disclosure of the US patent. This argument is not persuasive particularly considering the Applicant has not shown that the instant application is not obvious over the priority documents from which the patent stems. Furthermore, if the Applicant is referring to their prior argument with respect to the proximity of the dates, the Examiner notes that the priority dates of the instant application and the cited patent are irrelevant with respect to overcoming a double patenting rejection.

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Monique R Jackson whose telephone number is 571-272-1508. The examiner can normally be reached on Mondays-Thursdays, 8:00AM-4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul J Thibodeau can be reached on 571-272-1516. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Monique R. Jackson  
Primary Examiner  
Technology Center 1700  
February 9, 2004